



MS APPEAL BRIEF
PATENT
3613-0102P

IN THE U.S. PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

BEFORE THE BOARD OF APPEALS

Asa G. KLING et al.

APPEAL NO.:

APPL. NO.: 09/911,733

GROUP: 2179

FILED: July 25, 2001

EXAMINER: Sara M. HANNE

FOR: PRODUCT COST CONTROL GRAPHICAL USER INTERFACE

APPEAL BRIEF



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ON BEHALF OF APPELLANTS:
ASA KLING AND BJORN SVENSSON

MS APPEAL BRIEF

Board of Patent Appeals and Interferences
P.O. Box 1450
Alexandria, VA 22313-1450

February 21, 2006

Sir:

This appeal is from the decision of the Examiner dated July 13, 2005, rejecting claims 1-16, 18, and 20-23, which are reproduced as an Appendix to this Brief. Appellants hereby submit the following Appeal Brief in support of the Notice of Appeal filed November 14, 2005.

The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17, and 1.21 that may be required by this paper and to credit any overpayment to Deposit Account No. 02-2448.

I. REAL PARTY IN INTEREST

The real party in interest is the assignee of the entire interest in the above-captioned patent application, SCA Hygiene Products AB, SE-405 03 Göteborg, Sweden.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF THE CLAIMS

Claim 1-16, 18, and 20-23 are currently pending in this application. Claims 1-16, 18, and 20-23 are rejected and the subject of the present appeal. Claims 1, 8, 13, 16, and 23 are independent.

IV. STATUS OF AMENDMENTS

No amendments were filed after the rejection dated July 13, 2005.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The claimed invention is a data displaying interface where the interface comprises a page (e.g., Fig. 15) including a field 1 for selecting a desired institution, a field 2 for selecting a desired period, and a button 3 for displaying one of a plurality of reports containing information relating to usage of a plurality of specific incontinence products pertaining to a selected institution and a selected period. (Specification, p. 16, para. [0079]). The page further includes means 3 for selecting one or more periods for display on one of the plurality of reports. The page further includes means 4 for selecting a currency type used on one of the plurality of reports.

The data displaying interface further comprises a subsequent page (Fig. 16) obtainable by way of actuation of the button, a content of the subsequent page being chosen from the plurality of reports, wherein the content is determined based upon a last displayed report of the plurality of reports. (Pp. 16-17, paras. [0079]-[0080]). The content of the subsequent page is a summary report wherein the summary report includes detailed information pertaining to the products used in the selected institution over the selected period. The summary report further includes a graph pertaining to costs associated with the product used (Fig. 16A). The summary report further includes a graph pertaining to costs versus budget (Fig. 16B).

The plurality of reports include at least a summary report (Fig. 16), a detail report (Fig. 19), and a ward report (Fig. 21). The summary report includes information relating to major product groups 19 used in the selected institution and over a selected number of periods. The major product groups are each comprised of specific incontinence products related to a respective one of major product groups (reference no. 20). The detailed report includes information relating to specific products of major product groups (Fig. 19A, reference no. 19), the specific products each being an incontinence product.

The claimed invention is further directed to a product cost control method comprising storing data representative of the use of a plurality of specific incontinence products, creating a graphical user interface accessible by at least one user, the graphical user interface including access to a plurality of reports containing information based upon the data, and providing an interface accessible from at least one of the plurality of reports, the interface containing administrator analysis information pertaining to the data wherein the analysis information is utilized to regulate incontinence care for patients in an institution. (Specification, p. 47, paras. [00105]-[00106]).

The summary of the claimed invention herein is made to comply with the Patent Office rules in submitting briefs and is not to be considered as limiting the claimed invention. Further, the references to the specification herein are exemplary, and additional support for these claim elements may be found in different portions of the specification.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The Final Office Action provides four (4) grounds of rejection for review on appeal.

- (1) Claims 1-2, 4-5, 8, 13-14, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jones et al.* (USP 6,516,324) (hereinafter “*Jones*”) and further in view of *Kawarizadeh et al.* (USP 5,903,222) (hereinafter “*Kawarizadeh*”)¹;
- (2) claims 3, 8-12 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jones* and *Kawarizadeh*, and further in view of *Cunningham et al.* (USP 6,029,139) (hereinafter “*Cunningham*”);
- (3) claims 6-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jones* and *Kawarizadeh*, and further in view of *Amado* (USP 5,701,400) (hereinafter “*Amado*”); and
- (4) claims 16, 18, 20, 21, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Anderson et al.* (USP 5,974,396) in view of *Kawarizadeh*.

¹ The Official Action rejects these claims under 35 U.S.C. § 103(a) as being unpatentable over *Jones et al.* (USP 6,516,324) and further in view of *Kawarizadeh et al.* (USP 6,384,728). However, Patent No. 6,384,728 is issued to *Kanor*, the reference cited in the Examiner’s previous rejection. Based upon a telephone conference with the Examiner, the Examiner confirmed the typographical error and indicated the claims are rejected asserting *Kawarizadeh et al.* (USP 5,903,222).

VII. ARGUMENTS

A. The Rejection of Claims 1-2, 4-5, 8, 13-14, and 22 Under 35 U.S.C. § 103(a) as Being Unpatentable over *Jones* in View of *Kawarizadeh* Fails to Establish *Prima facie* Obviousness

1. Argument Summary

The reasoning provided in support of the rejection of claims 1-2, 4-5, 8, 13-14, and 22 under 35 U.S.C. § 103(a) as being unpatentable over *Jones* in view of *Kawarizadeh* fails to establish *prima facie* obviousness. Generally, the deficiencies of the rejection are that (a) the rejection attributes certain claimed features to the references that a detailed reading of the references reveals are not taught therein; (b) when the nature and purpose of the device of *Jones* is recognized, it is evident that there is no suggestion or motivation in either of the references cited in support of that rejection or in knowledge generally available to those skilled in the art to modify *Jones* in a manner asserted by the rejection; and (c) by asserting certain modifications to the device of *Jones* would have been obvious without a proper suggestion or motivation in the applied references or elsewhere to make the asserted modifications, the rejection appears to rely on impermissible hindsight reasoning. Such deficiencies exist for the rejection of each of claims 1-2, 4-5, 8, 13-14, and 22.

2. Legal Requirements of *Prima facie* Obviousness

To establish *prima facie* obviousness, all claim limitations must be taught or suggested by the prior art and the asserted modification or combination of the prior art must be supported by some teaching, suggestion, or motivation in the applied references or in knowledge generally available to one skilled in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The prior art must suggest the desirability of the modification in order to establish a *prima facie* case of obviousness. *In re Brouwer*, 77 F.3d 422, 425, 37 USPQ2d 1663, 1666 (Fed. Cir. 1995). It can also be said that the prior art must collectively suggest or point to the claimed invention to support a finding of obviousness. *In re Hedges*, 783 F.2d

1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986); *In re Ehrreich*, 590 F.2d 902, 908-909, 200 USPQ 504, 510 (C.C.P.A. 1979).

The teaching or suggestion to make the asserted combination or modification of the primary reference must be found in the prior art and cannot be gleaned from applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). In other words, the use of hindsight to reconstruct the claimed invention is impermissible. *Uniroyal Inc. v. Rudlan-Wiley Corp.*, 5 USPQ 1434 (Fed. Cir. 1983).

Finally, when considering the differences between the primary reference and the claimed invention, the question for assessing obviousness is not whether the differences themselves would be been obvious, but instead whether the claimed invention as a whole would have been obvious. *Stratoflex Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

3. The Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 1

Independent claim 1 is directed to a data displaying interface, the interface comprising a page including a field for selecting a desired institution, a field for selecting a desired period, and a button for displaying one of a plurality of reports containing information relating to usage of a plurality of specific incontinence products pertaining to a selected institution and a selected period.

In maintaining the rejection of independent claim 1 based on *Jones* and *Kawarizadeh*, the Final Office Action asserts on page 2, para. 3, as follows:

...*Jones* teaches a data-displaying interface with a page including fields for selecting a desired institution (Fig. 3, ref. 44) and a desired period (Figure 3, ref. 52, 53, 56) along with a button (Figure 3, ref. 66) for displaying one of a plurality of reports (Figure 3, Ref. 60) containing information that corresponds with the selected institution and time period (col. 7, line 40 et seq.). While *Jones* teaches generating an interface for selecting an institution and period and generating reports via a button corresponding to the selecting information, they fail to teach generating the information relating to usage of specific incontinence products as recited in the claim. In the same field of the

invention, *Kawarizadeh* teaches a product monitoring system similar to that of *Jones*. In addition, *Kawarizadeh* further teaches the monitoring of incontinence products (Column 4, lines 4 et seq.) It would have been obvious to one of ordinary skill in the art, having the teachings of *Jones* and *Kawarizadeh* before him at the time the invention was made, to modify the interface for selecting an institution and period and generating reports via a button corresponding to the selected information taught by *Jones* to include the incontinence product data of *Kawarizadeh*, in order to obtain a reporting system for incontinence product usage. One would have been motivated to make such a combination because a way to monitor usage of incontinence products would have been obtained, as taught by *Kawarizadeh* (Col. 1, lines 25-33 and Col. 3, lines 26-35).

Appellants disagree with the Examiner's characterization of the cited references, and further disagree that these references are properly combinable as these references are non-analogous art.

a. The Cited References Fail to Teach or Suggest All of the Claim Elements of Independent Claim 1

The disclosure of *Kawarizadeh* notes that the number of aged, bed-ridden patients wearing disposable undergarments is rising. Without the aid of sensors, attendants in a health care facility must physically inspect, on a pre-determined schedule, the disposable undergarment to determine if it is wet. This may be a problem because a patient who appears dry during inspection may soon thereafter soil their undergarment and left to lie in the soiled diaper until the next scheduled physical inspection. *Kawarizadeh* further notes that physically inspecting patients on a predetermined schedule is an inefficient use of the attendant's time and leads to inconveniencing the patient more often than is necessary (col. 1, lines 25-50). *Kawarizadeh* identifies a need for a sensitive wet diaper detector and alarm system that is usable with a conventional disposable or non-disposable diaper, is remotely monitorable, is inexpensive to produce, easy and convenient to use, does not require conductive electrodes to extend into the diaper itself nor a bulky housing.

Kawarizadeh solves these problems by providing a self-contained, reusable wet garment detecting device which may be adapted for use with undergarments of any type.

Further, *Kawarizadeh* discloses a device for use with a garment to detect the occurrence of a wet condition within said garment and to produce an electrical output in response to such detection and for detecting the presence of a garment wetness condition and transmitting that condition automatically to a remotely located attendant. The device may be part of a system for remotely monitoring the wetness condition of a plurality of garments such as may be worn by a number of patients in a nursing home. Such a system is comprised of a plurality of garment wetness sensors, each being electronically encoded with a unique address and having an output coupled to a transmitter for transmitting the encoded address of the garment in the presence of a wet garment condition, whereby each of the wetness sensors is affixed to a garment to be monitored. The system further comprises at least one receiver for receiving the transmitted encoded signals, a decoder for determining the address of the source of the transmitted signal, and an annunciator for informing an observer as to the address of the wet garment signal. The device may be a wireless paging device in connection with the garment wetness detecting system for transmitting the decoded address of a wet garment to the paging device for directing the attention of an attendant to the address of the wet garment (col. 3, line 39 through col. 4, line 22)..

However, the present invention as set forth in claim 1 recites, *inter alia*, a button for displaying one of a plurality of reports containing information relating to usage of a plurality of specific incontinence products pertaining to a selected institution and a selected period. *Kawarizadeh* merely teaches monitoring at least one condition and indicating and storing the occurrence or detection of the condition. Specifically, the device of *Kawarizadeh* may detect wetness and notify an attendant so the patient may be changed. There is no teaching or suggestion in *Kawarizadeh* that is directed to storing information relating to the usage of a plurality of specific incontinence products as set forth in the claim.

The Examiner has admitted that *Jones* fails to teach or suggest this claim element. Further, Appellants maintain that *Kawarizadeh* fails to cure the deficiencies of the teachings of *Jones*, assuming these references are combinable, which Appellants do not admit. As the Examiner has failed to provide references, either alone or in combination, that teach or suggest all of the claim elements, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness.

b. The Examiner Fails to Provide Valid Motivation in Support of Her Rejection of Claim 1

In support of the Examiner's rejection of claim 1, the Examiner provides the following motivation:

...One would have been motivated to make such a combination because a way to monitor usage of incontinence products would have been obtained, as taught by *Kawarizadeh* (col. 1, lines 25-33 and col. 3, lines 26-35).

The citations relied upon by the Examiner merely refer to the problem and desirability to identify when a patient needs to be changed, so as to make the patient more comfortable. As noted above, there is no disclosure in *Kawarizadeh* that is directed to monitoring the usage of incontinence products. *Kawarizadeh* merely discloses detecting a wetness condition. *Kawarizadeh* clearly discloses that this information is used to discern the level of care given to a patient. As *Kawarizadeh* fails to teach or suggest this claim element, as asserted by the Examiner, Appellants maintain that one of ordinary skill would not have been motivated to combine the teachings of *Jones* with the teachings of *Kawarizadeh* as asserted by the Examiner since this teaching clearly cannot be discerned from *Kawarizadeh*.

Further, there are no teachings, either in the references themselves, or within the knowledge of one skilled in the art to make the purported combination. As such, Appellants respectfully submit that there is no motivation to make the combination as asserted by the Examiner. As the Examiner

has failed to provide proper motivation to combine the teachings of the cited references, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness.

c. The Rejection of Independent Claim 1 Relies on Impermissible Hindsight Reasoning

By asserting that it would have been obvious to modify *Jones* to include the purported features of *Kawarizadeh*, with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on Appellant's own specification resulting in impermissible hindsight reasoning.

d. The Rejection of Independent Claim 1 Relies on Non-Analogous Art

In reliance on *Jones* and *Kawarizadeh*, Appellants maintain that the Examiner has relied on non-analogous art in support of the outstanding rejection.

A prerequisite to making a determination of obviousness is determining what is "prior art" in order to consider whether the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. 35 U.S.C. § 103. Although § 103 does not, by its terms, define the art to which the subject matter sought to be patented pertains, this determination is frequently couched in terms of whether or not the art is analogous, i.e., whether the art is too remote to be treated as prior art. *In re Clay*, 966 F.2d 656, 23 USPQ2d 1058 (citing to *In re Sovish*, 769 F.2d 739, 741, 226 USPQ 771, 773 (Fed. Cir. 1985)).

Two criteria have evolved for determining whether prior art is analogous: (1) whether the art is in the same field of endeavor, regardless of the problem addressed; and (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved. *Id.* at 1060. In support of the Examiner's

rejection of claim 1, the Examiner asserts “in the same field of the invention, *Kawarizadeh* teaches a product monitoring system similar to that of *Jones*.” Appellants maintain that neither of these references are similar to Appellants’ field of endeavor.

As indicated in the field of the invention of Appellants’ specification, the present invention relates to user interfaces for displaying computer storage database information, and more particularly, to graphical user interfaces providing computer stored database information relating to incontinence products used by specific institutions or groups of institutions. As described within the Detailed Description and the figures, the graphical user interface relating to incontinence products used by specific institutions or groups of institutions are disclosed.

Neither of the cited references are similar to Applicants’ field of endeavor. In contrast, the disclosure of *Jones et al.*, as stated in the Field of the Invention, is directed to centralized generation of reports which compile and/or summarize operational data from remotely located user-operated electronic devices, for example, imaging devices used for medical diagnosis.

The disclosure of *Kawarizadeh*, as recited in the Field of the Invention, is directed to a wetness-sensing device for diapers and other undergarments to enable the prompt changing when they become wet. The invention is further related to a reusable device containing a non-capacitive sensor mounted on the external surface of any type of diaper and a transmitter for relaying the presence of a wetness condition to a remotely monitored station. As such, neither of these references are similar to Applicants’ field of endeavor.

Additionally, neither of the references are reasonably pertinent to the particular problem with which the inventor is involved. *Jones* identifies a problem in maintaining diagnostic systems including reports of system performance and feedback on particular incidents requiring attention, updates of system licenses, software, imaging protocols, etc. *Jones* provides a system for providing

remote access to scanner utilization or diagnostic imaging reported generated by a computer system having access to a database of collected scanner operational data (Col. 3, lines 24-27).

In contrast, the problem identified in the Background portion of Applicants' specification states that due to conventional closed systems where the manufacturer and the consumer each have autonomous databases, statistical information relating to incontinence products, that may lead to a cost benefit for both the manufacturer and consumer, may be unavailable to the involved parties. The specification notes it would be desirable to provide a graphical user interface that summarizes consumed incontinence product information in a simple, easy to understand and user-friendly format and that it would be desirable to allow a consumer to review consumed incontinence product information relating to specific institutions owned or affiliated with a customer. (Specification, Paras. [0004]-[0005]).

Clearly, the problem to be solved in *Jones et al.* is not reasonably pertinent to the particular problem as set forth in Appellants' invention.

The disclosure of *Kawarizadeh* identifies a problem with personal monitoring devices in that they are expensive and that the design is flawed as the detecting strips that reside in the diaper are configured as integral non-detachable elements of the detector and alarm circuits. Again, the problem of *Kawarizadeh* is not reasonably pertinent to the particular problem with which the Appellants are involved.

As neither of the references are within Appellants' field of endeavor and, further, as neither of the references are reasonably pertinent to the particular problem with which the Appellants are involved, Appellants' maintain that the Examiner has cited non-analogous art in support of his rejection of claim 1. As such, Appellants maintain that claim 1 is patentable over the cited references.

4. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 2, 4, and 5

Claims 2, 4, and 5 depend either directly or indirectly from claim 1. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* in view of *Kawarizadeh* fails to establish *prima facie* obviousness for dependent claims 2, 4, and 5 at least for the reasons set forth above with regard to claim 1. Appellants further submit that dependent claims 2, 4, and 5 are separately patentable and offer the following additional argument for the invention of claims 2, 4, and 5.

The rejection of claims 2, 4 and 5 asserts that *Jones* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Jones* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 1. Thus, *Jones*, taken alone or in combination with *Kawarizadeh*, assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claims 2, 4, and 5.

5. The Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 13

Independent claim 13 is directed to a method for providing institutional specific information, the method comprising the steps of providing a graphical user interface accessible using required login information; generating one of a plurality of reports based upon user selected institutional information and user selected periods of time; and displaying on any one of the plurality of reports specific information relating to incontinence products used in the user selected institutional information and during the user selected periods of time.

As noted above with regard to claim 1, Appellants maintain that the purported combination of references fails to teach or suggest information relating to usage of a plurality of specific incontinence products. As such, Appellants maintain the Examiner has failed to provide references

that teach or suggest this claim element, in combination with the other elements set forth in claim 13. Further, as noted with regard to claim 1, the Examiner has failed to provide proper motivation to combine the teachings of the references and, based upon the Examiner's failure to provide proper motivation, appears to rely on Appellants' own specification, which amounts to impermissible hindsight. Finally, the Examiner has cited non-analogous art in support of the claim rejections. For all of these reasons, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. Appellants maintain that claim 13 is patentable over the references as cited.

6. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 14

Claim 14 depends directly from claim 13. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* in view of *Kawarizadeh* fails to establish *prima facie* obviousness for dependent claim 14 for at least the reasons set forth above with regard to claim 13. Appellants further submit that dependent claim 14 is separately patentable and offer the following additional argument for the invention of claim 14.

The rejection of claim 14 asserts that *Jones* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Jones* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 13. Thus, *Jones*, taken alone or in combination with *Kawarizadeh*, assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claim 14.

7. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 22

Claim 22 depends directly from claim 13. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* in view of *Kawarizadeh* fails to establish *prima facie* obviousness for dependent claim 22 at least for the reasons set forth above with regard to claim 13. Appellants further submit that dependent claim 22 is separately patentable and offer the following additional argument for the invention of claim 22.

The rejection of claim 22 asserts that *Kawarizadeh* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Kawarizadeh* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 13. Thus, *Jones*, taken alone or in combination with *Kawarizadeh*, assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claim 22.

B. The Rejection of Claims 3, 8-12 and 15 Under 35 U.S.C. § 103(a) as Being Unpatentable Over *Jones* and *Kawarizadeh*, and Further in View of *Cunningham*, Fails to Establish *Prima facie* Obviousness

1. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 3

Claim 3 depends directly from claim 1. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* and *Kawarizadeh*, and further in view of *Cunningham*, fails to establish *prima facie* obviousness for dependent claim 3 for at least the reasons set forth above with regard to claim 1. Appellants further submit that dependent claim 3 is separately patentable and offers the following additional argument for the invention of claim 3.

The rejection of claim 3 asserts that *Cunningham* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Cunningham* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 1. Thus, *Cunningham*, taken alone or in combination with *Jones* and *Kawarizadeh*,

assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claim 3.

2. The Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 8

Independent claim 8 is directed to a method for displaying data comprising generating a graphical user interface having a user selectable field pertaining to specific institutions, another user selectable field pertaining to specific time periods, means for selecting a number of periods, means for selecting a currency type, and a button and generating a subsequent graphical user interface upon actuation of the button, the subsequent graphical user interface being a report chosen from a plurality of predefined reports, wherein the report includes information relating to usage of a plurality of specific incontinence products relating to a selected institution and a specific time period.

As noted above with regard to claim 1, Appellants maintain that the purported combination of references fails to teach or suggest information relating to usage of a plurality of specific incontinence products. Further, *Cunningham* fails to cure the deficiencies of the primary and secondary references. As such, Appellants maintain the Examiner has failed to provide references that teach or suggest this claim element, in combination with the other elements set forth in claim 8. Further, with regard to claim 1, the Examiner has failed to provide proper motivation to combine the teachings of the references and, based upon the Examiner's failure to provide proper motivation, appears to rely on Appellants' own specification, which amounts to impermissible hindsight. Finally, the Examiner has cited non-analogous art in support of the claim rejections. For all of these reasons, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. Appellants maintain that claim 8 is patentable over the references as cited.

3. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 9-12

Claims 9-12 depend either directly or indirectly from claim 8. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* and *Kawarizadeh*, and further in view of *Cunningham*, fails to establish *prima facie* obviousness for dependent claims 9-12 for at least the reasons set forth above with regard to claim 8. Appellants further submit that dependent claims 9-12 are separately patentable and offers the following additional argument for the invention of claims 9-12.

The rejection of claims 9-12 asserts that *Cunningham* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Cunningham* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 8. Thus, *Cunningham*, taken alone or in combination with *Jones* and *Kawarizadeh*, assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claims 9-12.

4. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 15

Claim 15 depends directly from claim 13. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* and *Kawarizadeh*, and further in view of *Cunningham*, fails to establish *prima facie* obviousness for dependent claim 15 for at least the reasons set forth above with regard to claim 13. Appellants further submit that dependent claim 15 is separately patentable and offers the following additional argument for the invention of claim 15.

The rejection of claim 15 asserts that *Cunningham* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Cunningham* as allegedly teaching this claim feature fails to make up for the deficiencies of the rejection as applied to claim 13. Thus, *Cunningham*, taken alone or in combination with *Jones* and *Kawarizadeh*,

assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness of dependent claim 15.

C. The Rejection of Claims 6 and 7 Under 35 U.S.C. § 103(a) as Being Unpatentable Over *Jones* and *Kawarizadeh*, and Further in View of *Amado*, Fails to Establish *Prima facie* Obviousness

1. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 6

Claim 6 depends indirectly from claim 1. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* and *Kawarizadeh*, and further in view of *Amado*, fails to establish *prima facie* obviousness for dependent claim 6 for at least the reasons set forth above with regard to claim 1. Appellants further submit that dependent claim 6 is separately patentable and offer the following additional argument for the invention of claim 6.

The invention of claim 6 recites a data displaying interface wherein the summary report further includes a graph pertaining to costs associated with the products used.

In support of the Examiner's rejection of claim 6, the Examiner admits that neither *Jones* nor *Kawarizadeh* teach or suggest this claim element. The Examiner relies on the teachings of *Amado* to cure the deficiencies of the teachings of *Jones* and *Kawarizadeh*, citing to Fig. 55 and corresponding text. The Examiner provides motivation for the combination of the teachings in the Final Official Action on page 8 as follows:

...It would have been obvious to one of ordinary skill in the art, having the teachings of *Jones* and *Kawarizadeh* and *Amado* before him at the time the invention was made, to modify the product usage interface and reporting system relating to the usage of specific incontinence products taught by *Jones* and *Kawarizadeh* to include the cost and budget graphs for product usage of *Amado*, in order to obtain a graph representing the cost and budget figures for product usage relating to the usage of specific incontinence products pertaining to a specific institution and time period. One would have been motivated to make such a combination because a graphical representation of the analysis data results would have been obtained, as taught by *Amado*.

Appellants disagree that *Amado* teaches the elements as asserted by the Examiner. Appellants further disagree that there is proper motivation to combine the teachings of the cited references.

a. The Examiner Fails to Provide References that Teach or Suggest All of the Elements as Set Forth in Claim 6

Amado fails to teach or suggest the elements set forth in claim 6. The disclosure of *Amado* is directed to a system for applying artificial intelligence technology to data stored in databases and generates diagnostics that are user-definable interpretations of information in the database. Fig. 55 is used to show that action categories views are highly customizable wherein the user interface allows a user to tailor an application by defining customized screens with graphs, messages, personal notes, etc. However, there is no teaching or suggestion in *Amado* that is directed to a summary report further including a graph pertaining to costs associated with the products used. As the Examiner has failed to provide references that teach or suggest all of the claim elements, Appellants submit that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103 and, thus, claim 6 is allowable over the cited references.

b. The Examiner Fails to Provide Proper Motivation to Support Her Rejection of Claim 6

In support of her rejection of claim 6, the Examiner asserts it would have been obvious to one of ordinary skill in the art in order to obtain a graph representing the cost and budget figures for product usage relating to the usage of specific incontinence products pertaining to a specific institution and time period. The Examiner further states one would have been motivated to make such a combination because a graphical representation of the analysis data results would have been obtained. First, Appellants maintain that this statement is insufficient in order to provide proper motivation as to why one skilled in the art would have been motivated to combine the references. Further, as none of the cited references teach or suggest product usage relating to the usage of

specific incontinence products, Appellants maintain that there is no motivation, either in the references as cited or in the knowledge of one of ordinary skill in the art, to combine the teachings as purported by the Examiner. As the Examiner has failed to provide proper motivation to combine the teachings of the cited references, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103, and, thus, claim 6 is patentable over the references as cited.

c. The Rejection of Claim 6 Relies on Impermissible Hindsight Reasoning

By asserting that it would have been obvious to modify *Jones* to include the purported features of *Kawarizadeh* and *Amado*, with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on impermissible hindsight reasoning.

2. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 7

Claim 7 depends indirectly from claim 1. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Jones* and *Kawarizadeh*, and further in view of *Amado*, fails to establish *prima facie* obviousness for dependent claim 7 for at least the reasons set forth above with regard to claim 1. Appellants further submit that dependent claim 7 is separately patentable and offer the following additional argument for the invention of claim 7.

The invention of claim 7 recites a summary report including a graph pertaining to cost versus budget.

In support of the Examiner's rejection of claim 7, the Examiner admits that neither *Jones* nor *Kawarizadeh* teach or suggest this claim element. The Examiner relies on the teachings of *Amado* to cure the deficiencies of the teachings of *Jones* and *Kawarizadeh*, citing to Fig. 55 and corresponding text. The Examiner provides motivation for the combination of the teachings in the Final Official Action on page 8 as follows:

...It would have been obvious to one of ordinary skill in the art, having the teachings of *Jones* and *Kawarizadeh* and *Amado* before him at the time the invention was made, to modify the product usage interface and reporting system relating to the usage of specific incontinence products taught by *Jones* and *Kawarizadeh* to include the cost and budget graphs for product usage of *Amado*, in order to obtain a graph representing the cost and budget figures for product usage relating to the usage of specific incontinence products pertaining to a specific institution and time period. One would have been motivated to make such a combination because a graphical representation of the analysis data results would have been obtained, as taught by *Amado*.

Appellants disagree that *Amado* teaches the elements as asserted by the Examiner. Appellants further disagree that there is proper motivation to combine the teachings of the cited references.

a. The Examiner Fails to Provide References that Teach or Suggest All of the Elements as Set Forth in Claim 7

Amado fails to teach or suggest the elements set forth in claim 7. The disclosure of *Amado* is directed to a system for applying artificial intelligence technology to data stored in databases and generates diagnostics that are user-definable interpretations of information in the database. Fig. 55 is used to show that action categories views are highly customizable wherein the user interface allows a user to tailor an application by defining customized screens with graphs, messages, personal notes, etc. However, there is no teaching or suggestion in *Amado* that is directed to a summary report further including a graph pertaining to cost versus budget. As the Examiner has failed to provide references that teach or suggest all of the claim elements, Appellants submit that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103.

b. The Examiner Fails to Provide Proper Motivation to Support Her Rejection of Claim 7

In support of her rejection of claim 7, the Examiner asserts it would have been obvious to one of ordinary skill in the art in order to obtain a graph representing the cost and budget figures for product usage relating to the usage of specific incontinence products pertaining to a specific

institution and time period. The Examiner further states one would have been motivated to make such a combination because a graphical representation of the analysis data results would have been obtained. First, Appellants maintain that this statement is insufficient in order to provide proper motivation as to why one skilled in the art would have been motivated to combine the references. Further, as none of the cited references teach or suggest product usage relating to the usage of specific incontinence products, Appellants maintain that there is no motivation, either in the references as cited or in the knowledge of one of ordinary skill in the art, to combine the teachings as purported by the Examiner. As the Examiner has failed to provide proper motivation to combine the teachings of the cited references, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103 and thus, claim 7 is allowable over the references as cited.

c. The Rejection of Claim 7 Relies on Impermissible Hindsight Reasoning

By asserting that it would have been obvious to modify *Jones* to include the purported features of *Kawarizadeh* and *Amado*, with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on Appellants' own specification resulting in impermissible hindsight reasoning.

D. The Rejection of Claims 16, 18, 20, 21, and 23 Under 35 U.S.C. § 103(a) as Being Unpatentable Over *Anderson* in View of *Kawarizadeh* Fails to Establish *Prima facie* Obviousness

1. The Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 16

The invention as set forth in claim 16 provides for a private cost control method comprising storing data representative of use of the plurality of specific incontinence products; creating a graphical user interface accessible by at least one user, the graphical user interface including access to a plurality of reports containing information based upon the data; and providing an interface

accessible from at least one of the plurality of reports, the interface containing administrator analysis information pertaining to the data.

In support of the Examiner's rejection of claim 16, the Examiner asserts in the Final Office

Action on page 10 as follows:

...Anderson et al. [discloses] a product cost control method comprising storing data representative of product use ("The data is transaction data that describes the sales of a given product" Column 2, line 67 - Column 3, line 1), creating a GUI accessible by a user including access to a plurality of reports containing information based on the data ("various queries and requests of the consumer product purchase repository 26 are formatted and transmitted by a retailer via user interfaces 60 and 66", Column 8, lines 15-19), and providing an interface from one of the reports containing administrator analysis information pertaining to the data ("Repository Changes - Updates made by database information administrator to the database via the retailer interface", Column 4, lines 14-17), the analysis information to be related to product usage over a specific period of time (Column 10, line 29 - Column 11, line 19). While Anderson et al. teaches such a system for displaying product usage data, they fail to show the data relating to incontinence products as recited in the claims. In the same field of the invention, *Kawarizadeh* teaches a product monitoring similar to that of Anderson. In addition, *Kawarizadeh* further teaches the monitoring of incontinence products (Column 4, line 4 et seq.). It would have been obvious to one of ordinary skill in the art, having the teachings of Anderson and *Kawarizadeh* before him at the time the invention was made, to modify the product usage reporting system taught by Anderson to include the incontinence products of *Kawarizadeh*, in order to obtain incontinence product usage reports. One would have been motivated to make such a combination because a way to remotely monitor usage of incontinence products for multiple patients would have been obtained, as taught by *Kawarizadeh* (col. 1, lines 25-33 and Col. 3, liens 26-35).

Appellants disagree that the cited references teach or suggest all of the claim elements. Appellants further disagree that there is proper motivation to combine the teachings of the references as cited.

a. The References Fail to Teach or Suggest All of the Claim Elements as Set Forth in Claim 16

As discussed above with regard to claim 1, *Kawarizadeh* fails to teach or suggest storing data representative of use of a plurality of incontinence products. As such, Appellants maintain the Examiner has failed to provide references that teach or suggest this claim element, in combination with the other elements set forth in claim 16. The Examiner admits that *Anderson* fails to teach or suggest this claim element. As neither of the references cited by the Examiner, either alone or in combination, assuming these references are combinable, which Appellants do not admit, teach or suggest this claim element, Appellants respectfully submit that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. As such, Appellants maintain that claim 16 is patentable over the references as cited.

b. The Examiner Has Failed to Provide Proper Motivation to Combine the References With Regard to Claim 16

In support of the Examiner's rejection of claim 16, the Examiner asserts one would have been motivated to make such a combination because a way to monitor usage and spending of hospital incontinence products would have been obtained. However, as neither of the references cited teach or suggest monitoring storing data relating to incontinence products, nor monitoring usage and spending of hospital incontinence products, there is no teaching in the cited references, or in the knowledge of one of ordinary skill in the art, to combine the teachings as purported by the Examiner. As the Examiner has failed to provide proper motivation to combine the teachings of the references, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. As such, Appellants maintain that claim 16 is patentable over the references as cited.

c. The Rejection of Claim 16 Relies on Impermissible Hindsight Reasoning

By asserting that it would have been obvious to modify *Anderson* to include the purported features of *Kawarizadeh*, with no suggestion or motivation in the applied references or elsewhere to

do so, the rejection appears to rely on Appellants' own specification resulting in impermissible hindsight reasoning.

2. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claims 18 and 20

Claims 18 and 20 depend directly from claim 16. Appellants submit that the rejection under 35 U.S.C. § 103(a) based on *Anderson* in view of *Kawarizadeh* fails to establish *prima facie* obviousness for dependent claims 18 and 20 for the reasons set forth above with regard to claim 16. Appellants further submit that dependent claims 18 and 20 are separately patentable and offer the following additional argument for the invention of claims 18 and 20.

The rejection of claims 18 and 20 assert that *Anderson* teaches the incremental features as recited therein. Appellants respectfully submit, however, that the rejection's reliance on *Anderson* as allegedly teaching this claim feature fails to make up for the deficiencies for the rejection as applied to claim 16. Thus *Anderson*, taken alone or in combination with *Kawarizadeh*, assuming these references are combinable, which Appellants do not admit, fails to establish *prima facie* obviousness for dependent claims 18 and 20.

3. The Rejection Fails to Establish *Prima facie* Obviousness of Dependent Claim 21

The invention as set forth in claim 21 provides for a method wherein the administrator analysis information pertaining to the data is utilized to create a specific manufacturing cycle of the plurality of incontinence products.

a. The References Fail to Teach or Suggest All of the Claim Elements as Set Forth in Claim 21

In support of the Examiner's rejection of claim 21, the Examiner admits that *Anderson* fails to teach or suggest this claim element. The Examiner relies on the teachings of *Kawarizadeh* to cure the deficiencies of the teachings of *Anderson*, citing to col. 4, line 4 et seq. In reviewing the citation

provided by the Examiner, there is no teaching or suggestion that is directed to creating a specific manufacturing cycle of the plurality of incontinence products as asserted by the Examiner. As the Examiner has failed to provide references that teach or suggest all of the claim elements, Appellants maintain that the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103.

b. The Examiner Has Failed to Provide Proper Motivation to Combine the References as Cited

In support of the Examiner's rejection of claim 21, the Examiner asserts that one would have been motivated to combine the teachings because a way to meet the needs of a hospital's incontinence product usage would have been obtained as taught by *Kawarizadeh*. However, there is no teaching in *Kawarizadeh* that is directed to meeting needs of hospital incontinence product usage in *Kawarizadeh*. *Kawarizadeh* is merely concerned with patient comfort. As the Examiner's motivation is not suggested by the references as cited, nor is it within the knowledge of one of ordinary skill in the art, Appellants maintain that there is no motivation to combine the references as suggested by the Examiner. As the Examiner has failed to provide proper motivation to combine the references, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103 and, thus, claim 21 is allowable over the references as cited.

c. The Rejection of Claim 16 Relies on Impermissible Hindsight Reasoning

By asserting that it would have been obvious to modify *Anderson* to include the purported features of *Kawarizadeh*, with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on Appellants' own specification resulting in impermissible hindsight reasoning.

4. The Rejection Fails to Establish *Prima facie* Obviousness of Independent Claim 23

The invention of claim 23 is directed to storing information relating to usage of a plurality of specific incontinence products for a plurality of health care institutions; providing a user interface to access the stored information, wherein the user interface may be used to select at least one health care institution and a time period; generating at least one of a plurality of reports based upon the selected health care institution and the selected time period; displaying the at least one generated report including specific information relating to the use of incontinence products at the selected health care institution for the selected time period; and utilizing the information in the at least one generated report to regulate incontinence care for patients in the selected health care institution.

The Examiner's rejection with regard to this claim was set forth above with regard to claim 16.

Appellants disagree that the Examiner has provided references that teach or suggest all of the claim elements. Appellants further disagree that the Examiner has provided proper motivation to combine the references as cited.

a. The References Fail to Teach or Suggest All of the Claim Elements as Set Forth in Claim 23

As noted above with regard to claim 1, Appellants maintain that *Kawarizadeh* fails to teach or suggest storing information relating to usage of a plurality of specific incontinence products. As such, Appellants maintain the Examiner has failed to provide references that teach or suggest this claim element, in combination with the other elements set forth in claim 23. Thus, Appellants maintain that *Kawarizadeh* fails to cure the deficiencies of *Anderson*, assuming these references are combinable, which Appellants do not admit. As the Examiner has failed to provide references that teach or suggest all of the claim elements, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. As such, Appellants maintain that claim 23 is patentable over the references as cited.

b. The Examiner Has Failed to Provide Proper Motivation to Combine the References With Regard to Claim 23

In support of the Examiner's rejection of claim 23, the Examiner asserts one would have been motivated to make such a combination because a way to monitor usage and spending of hospital incontinence products would have been obtained. However, as neither of the references cited teach or suggest monitoring storing data relating to incontinence products, nor monitoring usage and spending of hospital incontinence products, there is no teaching in the cited references, or in the knowledge of one of ordinary skill in the art, to combine the teachings as purported by the Examiner. As the Examiner has failed to provide proper motivation to combine the teachings of the references, the Examiner has failed to establish *prima facie* obviousness under 35 U.S.C. § 103. As such, Appellants maintain that claim 23 is patentable over the references as cited.

c. The Rejection of Claim 23 Relies on Impermissible Hindsight Reasoning

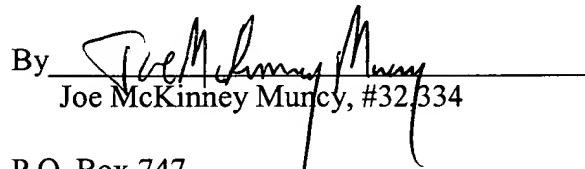
By asserting that it would have been obvious to modify *Anderson* to include the purported features of *Kawarizadeh*, with no suggestion or motivation in the applied references or elsewhere to do so, the rejection appears to rely on Appellants' own specification resulting in impermissible hindsight reasoning.

VIII. CONCLUSION

The withdrawal of the outstanding rejections and the allowance of claims 1-16, 18, and 20-23 is earnestly solicited.

Respectfully submitted,

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IX. CLAIMS APPENDIX A

1. (Previously Presented) A data displaying interface, the interface comprising:
a page including:
a field for selecting a desired institution,
a field for selecting a desired period, and
a button for displaying one of a plurality of reports containing information relating to usage of a plurality of specific incontinence products pertaining to a selected institution and a selected period.

2. (Original) The data displaying interface of claim 1, wherein the page further comprises means for selecting one or more periods for display on one of the plurality of reports.

3. (Original) The data displaying interface of claim 1, wherein said first page further comprises means for selecting a currency type used on one of the plurality of reports.

4. (Original) The data displaying interface of claim 1, further comprising:
a subsequent page obtainable by way of actuation of said button, a content of said subsequent page being chosen from the plurality of reports, wherein the content is determined based upon a last displayed report of the plurality of reports.

5. (Original) The data displaying interface of claim 4, wherein the content of said subsequent page is a summary report, the summary report includes detailed information pertaining to products used in the selected institution over the selected period.

6. (Original) The data displaying interface of claim 5, wherein the summary report further includes a graph pertaining to costs associated with the products used.

7. (Original) The data displaying interface of claim 5, wherein the summary report further includes a graph pertaining to costs versus budget.

8. (Previously Presented) A method for displaying data, the method comprising the steps of:

generating a graphical user interface having a user selectable field pertaining to specific institutions, another user selectable field pertaining to specific time periods, means for selecting a number of periods, means for selecting a currency type, and a button; and

generating a subsequent graphical user interface upon actuation of the button, the subsequent graphical user interface being a report chosen from a plurality of predefined reports, wherein the report includes information relating to usage of a plurality of specific incontinence products relating to a selected institution and a specific time period.

9. (Original) The method according to claim 8, wherein the step of generating chooses the report from the plurality of predefined reports including at least a summary report, a detail report and a ward report.

10. (Original) The method according to claim 9, wherein the summary report includes information relating to major product groups used in the selected institution and over a selected number of periods.

11. (Original) The method according to claim 10, wherein the major product groups are each comprised of specific incontinence products related to a respective one of the major product groups.

12. (Original) The method according to claim 9, wherein the detailed report includes information relating to specific products of major product groups, the specific products each being an incontinence product.

13. (Original) A method for providing institutional specific information, the method comprising the steps of:

providing a graphical user interface accessible using required login information;
generating one of a plurality of reports based upon user selected institutional information and user selected periods of time; and
displaying on any one of the plurality of reports specific information relating to incontinence products used in the user selected institutional information and during the user selected periods of time.

14. (Original) The method according to claim 13, wherein the step of generating, the user selected institutional information is a specific user selected hospital or a group of hospitals previously grouped together.

15. (Original) The method according to claim 13, wherein the step of displaying, the one of the plurality of reports is selected from a summary report, a detail report and a ward report.

16. (Previously Presented) A product cost control method, comprising the steps of: storing data representative of use of a plurality of specific incontinence products; creating a graphical user interface accessible by at least one user, the graphical user interface including access to a plurality of reports containing information based upon the data; providing an interface accessible from at least one of the plurality of reports, the interface containing administrator analysis information pertaining to the data.

18. (Previously Presented) The method according to claim 16, wherein the step of providing provides analysis information relating to use of incontinence products over a specific period of time.

20. (Previously Presented) The method of claim 16, wherein the administrator analysis information pertaining to the data is utilized to regulate incontinence care for patients in an institution.

21. (Previously Presented) The method of claim 16, wherein the administrator analysis information pertaining to the data is utilized to create a specific manufacturing cycle of the plurality of incontinence products.

22. (Previously Presented) The method of claim 13, wherein the specific information relating to incontinence products is utilized to regulate incontinence care for patients in an institution.

23. (Previously Presented) A method for providing information relating to incontinence product use within an institution, comprising:

storing information relating to usage of a plurality of specific incontinence products for a plurality of health care institutions;

providing a user interface to access the stored information, wherein the user interface may be used to select at least one health care institution and a time period;

generating at least one of a plurality of reports based upon the selected health care institution and the selected time period;

displaying the at least one generated report including specific information relating to the use of incontinence products at the selected health care institution for the selected time period; and

utilizing the information in the at least one generated report to regulate incontinence care for patients in the selected health care institution.

APPENDIX B

There is no additional evidence pursuant to §§ 1.130, 1.131, or 1.132 and/or evidence entered by or relied upon by the examiner that is relevant to this appeal.

APPENDIX C

There are no related proceedings.